

# 17:16W-2

## LEGISLATIVE HISTORY CHECKLIST

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**LAWS OF:** 2001 **CHAPTER:** 169  
**NJSA:** 17:16W-2 (Record retention by financial institutions)  
**BILL NO:** S1978 (Substituted for A3529)

**SPONSOR(S):** Cardinale and Bucco

**DATE INTRODUCED:** December 14, 2000

**COMMITTEE:** **ASSEMBLY:** ---  
**SENATE:** Commerce

**AMENDED DURING PASSAGE:** No

**DATE OF PASSAGE:** **ASSEMBLY:** June 28, 2001  
**SENATE:** May 3, 2001

**DATE OF APPROVAL:** July 26, 2001

### FOLLOWING ARE ATTACHED IF AVAILABLE:

#### FINAL TEXT OF BILL (Original version of bill enacted)

##### S1978

**SPONSORS STATEMENT:** (Begins on page 5 of original bill) Yes

**COMMITTEE STATEMENT:** **ASSEMBLY:** No

**SENATE:** Yes

**FLOOR AMENDMENT STATEMENTS:** No

**LEGISLATIVE FISCAL ESTIMATE:** No

##### A3529

**SPONSORS STATEMENT:** (Begins on page 5 of original bill) Yes

Bill and Sponsors Statement identical to S1978

**COMMITTEE STATEMENT:**

**ASSEMBLY:** Yes

Identical to Senate Statement to S1978

**SENATE:** No

**FLOOR AMENDMENT STATEMENTS:** No

**LEGISLATIVE FISCAL ESTIMATE:** No

**VETO MESSAGE:** No

**GOVERNOR'S PRESS RELEASE ON SIGNING:** Yes

**FOLLOWING WERE PRINTED:**

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**REPORTS:** No

**HEARINGS:** No

**NEWSPAPER ARTICLES:** No

**SENATE, No. 1978**

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**STATE OF NEW JERSEY**  
**209th LEGISLATURE**

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INTRODUCED DECEMBER 14, 2000

**Sponsored by:**

**Senator GERALD CARDINALE**

**District 39 (Bergen)**

**Senator ANTHONY R. BUCCO**

**District 25 (Morris)**

**Co-Sponsored by:**

**Assemblymen Bateman and Biondi**

**SYNOPSIS**

Concerns record retention by certain financial institutions.

**CURRENT VERSION OF TEXT**

As introduced.



**(Sponsorship Updated As Of: 6/29/2001)**

1 AN ACT concerning the retention of records by certain financial  
2 institutions and amending P.L.1999, c.257.

3  
4 **BE IT ENACTED** by the Senate and General Assembly of the State  
5 of New Jersey:

6  
7 1. Section 2 of P.L.1999, c.257 (C.17:16W-2) is amended to read  
8 as follows:

9 2. As used in this act:

10 "Commissioner" means the Commissioner of Banking and  
11 Insurance.

12 "Date of the passbook" means the date of the last entry by the  
13 financial institution of a transaction with respect to the passbook  
14 account, or if the form of the passbook is such that it does not provide  
15 for entry of transactions, the last date for which the financial  
16 institution has a record of an account transaction. If there is no record  
17 of activity with respect to a passbook account subsequent to the  
18 issuance of the passbook, the date of issuance shall be the date of the  
19 passbook.

20 "Financial institution" means a State chartered bank, savings bank  
21 or savings and loan association.

22 "Owner" means the person or persons in whose name the account  
23 was opened.

24 "Passbook" means a document or record issued by a financial  
25 institution, which document or record represents an obligation of the  
26 financial institution, which obligation either has no fixed maturity or  
27 due date or which by its term is subject to automatic renewal or  
28 renewals for an indefinite time or indefinite number of times. Neither  
29 a periodic account statement nor any obligation for which applicable  
30 law provides a time by which the payment is due is a passbook for the  
31 purposes of this act.

32 "Passbook account" means an account which is evidenced by a  
33 passbook, certificate of deposit or similar document.

34 "Statement account" means an account which is not a passbook  
35 account and for which a financial institution supplies a periodic  
36 statement of the account's activity, balance or both, or supplies any  
37 other statement of the account as the owner and financial institution  
38 may agree.

39 "Termination of the loan account" means: (1) with respect to a  
40 closed-end loan, the date on which the loan is paid; or (2) with  
41 respect to an open-end loan, the date on which the outstanding balance  
42 on the account is brought to zero and the account is closed so that the  
43 borrower has no right to borrow additional funds under the loan

**EXPLANATION - Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and intended to be omitted in the law.**

**Matter underlined thus is new matter.**

1 agreement; or (3) the date upon which, pursuant to action or policy  
2 of the governing board of a financial institution or committee thereof,  
3 a loan is charged-off or the loan file is otherwise closed by the  
4 financial institution.

5 (cf: P.L.1999, c.257, s.2)

6

7 2. Section 5 of P.L.1999, c.257 (C.17:16W-5) is amended to read  
8 as follows:

9 5. A financial institution shall retain records relating to the making,  
10 collection and administration of loans as follows:

11 a. For all loans:

12 (1) Records of ~~bankruptcies of borrowers,~~ dispositive or final  
13 judgments against parties obligated on the ~~in bankruptcies or other~~  
14 litigation involving a loan, and ~~charge-off loans or closing of loan~~  
15 files termination of loan accounts shall be retained for at least ~~[20]~~  
16 six years after the closing termination of the loan account.

17 (2) ~~[Litigation files shall be retained for not less than six years~~  
18 ~~following the date of the final disposition of the litigation.] (Deleted~~  
19 ~~by amendment, P.L. , c. .)~~

20 (3) Records of approval of loans or credit shall be retained for not  
21 less than six years after the closing of the loan or credit files.

22 (4) Records of denials of ~~[a]~~ loan applications shall be retained for  
23 not less than 25 months after the date of the denial.

24 (5) Loan files, including ~~[, but not limited to, appraisals, financial~~  
25 ~~statements, information]~~ copies of records regarding collateral and the  
26 perfection of security interests, guarantees~~[, credit information and~~  
27 ~~correspondence with the borrower]~~ and other records from time to  
28 time specified for retention by regulation adopted by the  
29 commissioner, shall be retained for not less than six years after the  
30 ~~[closing]~~ termination of the loan [file] account. For lines of credit  
31 and open-end loans, records of transactions shall be retained for six  
32 years after the date of a transaction.

33 (6) Loan committee minutes shall be retained for not less than six  
34 years after the date of the committee meeting.

35 (7) Record of compliance with all applicable State and federal  
36 regulatory requirements shall be retained for the period specified in the  
37 applicable State or federal law or regulation. If no record retention  
38 period is specified in the law or regulation, the financial institution  
39 shall retain the records necessary to show compliance for not less than  
40 six years.

41 b. Collateralized loans:

42 (1) Records identifying the collateral perfection of the financial  
43 institution's security interest in the collateral and, for tangible personal  
44 property, the place and method of possession of the collateral shall be  
45 retained for not less than six years after the ~~[close of the file]~~

1 termination of the loan account.

2 (2) Records of the disposition by a financial institution of [the]  
3 collateral that is personal property shall be retained for not less than  
4 six years after the date of disposition.

5 (3) For collateral that is real estate, records regarding the transfer  
6 of title [, including searches, title insurance policies and legal opinions  
7 as to title] by the financial institution shall be retained for at least [20]  
8 six years after the date of [disposition of the property if the property  
9 is transferred to a party other than the borrower. If the lien is released  
10 or otherwise satisfied and the borrower retains ownership of the  
11 property, the title records shall be retained for not less than six years]  
12 transfer of title. Records of dispositive or final judgments or orders  
13 in foreclosure proceedings shall be retained for not less than [20] six  
14 years after the date of the judgment of foreclosure or if no judgment,  
15 from the date of the termination of those proceedings.

16 (4) Records of escrow analyses and statements and of transactions  
17 in escrow accounts shall be retained for not less than six years.

18 (cf: P.L.1999, c.257, s.5)

19

20 3. Section 10 of P.L.1999, c.257 (C.17:16W-10) is amended to  
21 read as follows:

22 10. a. In the event of any claim against a financial institution  
23 where the claimant relies in any way on records of the financial  
24 institution, which records are not required to be retained by the  
25 financial institution by the terms of this act or by other applicable State  
26 or federal record retention statutes or regulations and the records have  
27 not been retained by the financial institution, the fact that the financial  
28 institution does not have the records shall not give rise to any  
29 inference or presumption against the financial institution as to the  
30 content of the records nor shall the lack of the records shift any burden  
31 of proof from the claimant to the financial institution.

32 b. Nothing in this act shall be deemed to amend or alter any statute  
33 of limitations.

34 c. Nothing in P.L.1999, c.257 (C.17:16W-1 et seq.) shall be  
35 interpreted to require a financial institution to create any data or,  
36 except as specifically provided in that act, to retain any records that  
37 would not otherwise be created or retained. Records required to be  
38 retained by P.L.1999, c.257 (C.17:16W-1 et seq.) may be preserved  
39 in any form permitted by section 247 of P.L.1948, c.67 (C.17:9A-  
40 247).

41 (cf: P.L.1999, c.257, s.10)

42

43 4. Section 11 of P.L.1999, c.257 (C.17:16W-11) is amended to  
44 read as follows:

45 11. The provisions of this act shall apply to all financial institutions  
46 chartered by this State and to the records of out-of-State banks,

1 savings banks and savings and loan associations which relate to  
2 accounts, loans or other transactions which are made or located in this  
3 State. The provisions of [this act] section 4 of P.L.1999, c.257  
4 (C.17:16W-4) shall apply to federally chartered banks and savings  
5 banks in this State to the extent that they are not inconsistent with  
6 applicable federal law.

7 (cf: P.L.1999, c.257, s.11)

8

9 5. This act shall take effect immediately.

10

11

12

### STATEMENT

13

14 This bill makes technical and other amendments to the recent law  
15 concerning the retention of records by certain financial institutions,  
16 P.L.1999, c.257.

17 It adds a definition of "termination of the loan account" which  
18 means, for a closed-end loan, the date on which the loan is paid, and  
19 for an open-end loan, the date on which the outstanding balance of the  
20 account is brought to zero and the account is closed so that the  
21 borrower has no right to borrow additional funds under the loan  
22 agreement. In either case, termination of the loan account also occurs  
23 on the date upon which a loan is charged-off or the loan file is closed  
24 pursuant to action or policy of the governing board or committee of  
25 a financial institution.

26 The bill also clarifies that only records of dispositive or final  
27 judgments in bankruptcies or other litigation involving a loan need be  
28 retained, and for a six-year rather than a 20-year period. Additionally,  
29 copies of records regarding collateral and the perfection of security  
30 interests, guarantees and other records specified by the Commissioner  
31 of Banking and Insurance need to be retained for a six-year period  
32 after the termination of the loan account. The bill also clarifies that  
33 records of transfers by a financial institution of collateral that is real  
34 property shall be retained for six years after the date of the transfer of  
35 title, and that records of dispositive or final judgments or orders in  
36 foreclosure proceedings shall also be retained for six years.

37 The bill also adds a provision which states that nothing in the law  
38 concerning record retention shall be interpreted to require a financial  
39 institution to create any data or, except as specifically provided in the  
40 law, to retain any records that would not otherwise be created or  
41 retained. Under the provisions of the bill, financial institutions may  
42 retain records in any form permitted by current law.

# SENATE COMMERCE COMMITTEE

## STATEMENT TO

### SENATE, No. 1978

# STATE OF NEW JERSEY

DATED: JANUARY 9, 2001

The Senate Commerce Committee reports favorably Senate Bill No. 1978.

This bill makes technical and other amendments to the recent law concerning the retention of records by certain financial institutions, P.L.1999, c.257.

It adds a definition of "termination of the loan account" which means, for a closed-end loan, the date on which the loan is paid, and for an open-end loan, the date on which the outstanding balance of the account is brought to zero and the account is closed so that the borrower has no right to borrow additional funds under the loan agreement. In either case, termination of the loan account also occurs on the date upon which a loan is charged-off or the loan file is closed pursuant to action or policy of the governing board or committee of a financial institution.

The bill provides that records of dispositive or final judgments in bankruptcies involving a loan or termination of loan accounts need only be retained for a six-year period rather than the 20-year period under current law. Additionally, copies of records regarding collateral and the perfection of security interests, guarantees and other records specified by the Commissioner of Banking and Insurance need to be retained for a six-year period after the termination of the loan account. Instead of the current requirement for a 20-year retention, the bill provides that records of transfers by a financial institution of collateral that is real property shall be retained for six years after the date of the transfer of title, and that records of dispositive or final judgments or orders in foreclosure proceedings shall also be retained for six years.

The bill also adds a provision which states that nothing in the law concerning record retention shall be interpreted to require a financial institution to create any data or, except as specifically provided in the law, to retain any records that would not otherwise be created or retained. Under the provisions of the bill, financial institutions may retain records in any form permitted by current law.



# ASSEMBLY, No. 3259

## STATE OF NEW JERSEY 209th LEGISLATURE

INTRODUCED MARCH 1, 2001

**Sponsored by:**

**Assemblyman CHRISTOPHER "KIP" BATEMAN**

**District 16 (Morris and Somerset)**

**Assemblyman PETER J. BIONDI**

**District 16 (Morris and Somerset)**

**SYNOPSIS**

Concerns record retention by certain financial institutions.

**CURRENT VERSION OF TEXT**

As introduced.



1 AN ACT concerning the retention of records by certain financial  
2 institutions and amending P.L.1999, c.257.

3  
4 **BE IT ENACTED** by the Senate and General Assembly of the State  
5 of New Jersey:

6  
7 1. Section 2 of P.L.1999, c.257 (C.17:16W-2) is amended to read  
8 as follows:

9 2. As used in this act:

10 "Commissioner" means the Commissioner of Banking and  
11 Insurance.

12 "Date of the passbook" means the date of the last entry by the  
13 financial institution of a transaction with respect to the passbook  
14 account, or if the form of the passbook is such that it does not provide  
15 for entry of transactions, the last date for which the financial  
16 institution has a record of an account transaction. If there is no record  
17 of activity with respect to a passbook account subsequent to the  
18 issuance of the passbook, the date of issuance shall be the date of the  
19 passbook.

20 "Financial institution" means a State chartered bank, savings bank  
21 or savings and loan association.

22 "Owner" means the person or persons in whose name the account  
23 was opened.

24 "Passbook" means a document or record issued by a financial  
25 institution, which document or record represents an obligation of the  
26 financial institution, which obligation either has no fixed maturity or  
27 due date or which by its term is subject to automatic renewal or  
28 renewals for an indefinite time or indefinite number of times. Neither  
29 a periodic account statement nor any obligation for which applicable  
30 law provides a time by which the payment is due is a passbook for the  
31 purposes of this act.

32 "Passbook account" means an account which is evidenced by a  
33 passbook, certificate of deposit or similar document.

34 "Statement account" means an account which is not a passbook  
35 account and for which a financial institution supplies a periodic  
36 statement of the account's activity, balance or both, or supplies any  
37 other statement of the account as the owner and financial institution  
38 may agree.

39 "Termination of the loan account" means: (1) with respect to a  
40 closed-end loan, the date on which the loan is paid; or (2) with  
41 respect to an open-end loan, the date on which the outstanding balance  
42 on the account is brought to zero and the account is closed so that the  
43 borrower has no right to borrow additional funds under the loan

**EXPLANATION - Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and intended to be omitted in the law.**

**Matter underlined thus is new matter.**

1 agreement; or (3) the date upon which, pursuant to action or policy of  
2 the governing board of a financial institution or committee thereof, a  
3 loan is charged-off or the loan file is otherwise closed by the financial  
4 institution.

5 (cf: P.L.1999, c.257, s.2)

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7 2. Section 5 of P.L.1999, c.257 (C.17:16W-5) is amended to read  
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9 5. A financial institution shall retain records relating to the making,  
10 collection and administration of loans as follows:

11 a. For all loans:

12 (1) Records of ~~bankruptcies of borrowers,~~ dispositive or final  
13 judgments against parties obligated on the ~~in bankruptcies or other~~  
14 litigation involving a loan, and charge-off loans or closing of loan  
15 files termination of loan accounts shall be retained for at least ~~[20]~~  
16 six years after the closing termination of the loan account.

17 (2) ~~[Litigation files shall be retained for not less than six years~~  
18 ~~following the date of the final disposition of the litigation.] (Deleted~~  
19 ~~by amendment, P.L. , c. .)~~

20 (3) Records of approval of loans or credit shall be retained for not  
21 less than six years after the closing of the loan or credit files.

22 (4) Records of denials of ~~[a]~~ loan applications shall be retained for  
23 not less than 25 months after the date of the denial.

24 (5) Loan files, including ~~[, but not limited to, appraisals, financial~~  
25 ~~statements, information]~~ copies of records regarding collateral and the  
26 perfection of security interests, guarantees~~[, credit information and~~  
27 ~~correspondence with the borrower]~~ and other records from time to  
28 time specified for retention by regulation adopted by the  
29 commissioner, shall be retained for not less than six years after the  
30 ~~[closing]~~ termination of the loan [file] account. For lines of credit  
31 and open-end loans, records of transactions shall be retained for six  
32 years after the date of a transaction.

33 (6) Loan committee minutes shall be retained for not less than six  
34 years after the date of the committee meeting.

35 (7) Record of compliance with all applicable State and federal  
36 regulatory requirements shall be retained for the period specified in the  
37 applicable State or federal law or regulation. If no record retention  
38 period is specified in the law or regulation, the financial institution  
39 shall retain the records necessary to show compliance for not less than  
40 six years.

41 b. Collateralized loans:

42 (1) Records identifying the collateral perfection of the financial  
43 institution's security interest in the collateral and, for tangible personal  
44 property, the place and method of possession of the collateral shall be  
45 retained for not less than six years after the ~~[close of the file]~~

1 termination of the loan account.

2 (2) Records of the disposition by a financial institution of [the]  
3 collateral that is personal property shall be retained for not less than  
4 six years after the date of disposition.

5 (3) For collateral that is real estate, records regarding the transfer  
6 of title [, including searches, title insurance policies and legal opinions  
7 as to title] by the financial institution shall be retained for at least [20]  
8 six years after the date of [disposition of the property if the property  
9 is transferred to a party other than the borrower. If the lien is released  
10 or otherwise satisfied and the borrower retains ownership of the  
11 property, the title records shall be retained for not less than six years]  
12 transfer of title. Records of dispositive or final judgments or orders  
13 in foreclosure proceedings shall be retained for not less than [20] six  
14 years after the date of the judgment of foreclosure or if no judgment,  
15 from the date of the termination of those proceedings.

16 (4) Records of escrow analyses and statements and of transactions  
17 in escrow accounts shall be retained for not less than six years.

18 (cf: P.L.1999, c.257, s.5)

19

20 3. Section 10 of P.L.1999, c.257 (C.17:16W-10) is amended to  
21 read as follows:

22 10. a. In the event of any claim against a financial institution  
23 where the claimant relies in any way on records of the financial  
24 institution, which records are not required to be retained by the  
25 financial institution by the terms of this act or by other applicable State  
26 or federal record retention statutes or regulations and the records have  
27 not been retained by the financial institution, the fact that the financial  
28 institution does not have the records shall not give rise to any  
29 inference or presumption against the financial institution as to the  
30 content of the records nor shall the lack of the records shift any burden  
31 of proof from the claimant to the financial institution.

32 b. Nothing in this act shall be deemed to amend or alter any statute  
33 of limitations.

34 c. Nothing in P.L.1999, c.257 (C.17:16W-1 et seq.) shall be  
35 interpreted to require a financial institution to create any data or,  
36 except as specifically provided in that act, to retain any records that  
37 would not otherwise be created or retained. Records required to be  
38 retained by P.L.1999, c.257 (C.17:16W-1 et seq.) may be preserved  
39 in any form permitted by section 247 of P.L.1948, c.67 (C.17:9A-  
40 247).

41 (cf: P.L.1999, c.257, s.10)

42

43 4. Section 11 of P.L.1999, c.257 (C.17:16W-11) is amended to  
44 read as follows:

45 11. The provisions of this act shall apply to all financial institutions  
46 chartered by this State and to the records of out-of-State banks,

1 savings banks and savings and loan associations which relate to  
2 accounts, loans or other transactions which are made or located in this  
3 State. The provisions of [this act] section 4 of P.L.1999, c.257  
4 (C.17:16W-4) shall apply to federally chartered banks and savings  
5 banks in this State to the extent that they are not inconsistent with  
6 applicable federal law.

7 (cf: P.L.1999, c.257, s.11)

8

9 5. This act shall take effect immediately.

10

11

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### STATEMENT

13

14 This bill makes technical and other amendments to the recent law  
15 concerning the retention of records by certain financial institutions,  
16 P.L.1999, c.257.

17 It adds a definition of "termination of the loan account" which  
18 means, for a closed-end loan, the date on which the loan is paid, and  
19 for an open-end loan, the date on which the outstanding balance of the  
20 account is brought to zero and the account is closed so that the  
21 borrower has no right to borrow additional funds under the loan  
22 agreement. In either case, termination of the loan account also occurs  
23 on the date upon which a loan is charged-off or the loan file is closed  
24 pursuant to action or policy of the governing board or committee of  
25 a financial institution.

26 The bill also clarifies that only records of dispositive or final  
27 judgments in bankruptcies or other litigation involving a loan need be  
28 retained, and for a six-year rather than a 20-year period. Additionally,  
29 copies of records regarding collateral and the perfection of security  
30 interests, guarantees and other records specified by the Commissioner  
31 of Banking and Insurance need to be retained for a six-year period  
32 after the termination of the loan account. The bill also clarifies that  
33 records of transfers by a financial institution of collateral that is real  
34 property shall be retained for six years after the date of the transfer of  
35 title, and that records of dispositive or final judgments or orders in  
36 foreclosure proceedings shall also be retained for six years.

37 The bill also adds a provision which states that nothing in the law  
38 concerning record retention shall be interpreted to require a financial  
39 institution to create any data or, except as specifically provided in the  
40 law, to retain any records that would not otherwise be created or  
41 retained. Under the provisions of the bill, financial institutions may  
42 retain records in any form permitted by current law.

# ASSEMBLY BANKING AND INSURANCE COMMITTEE

## STATEMENT TO

### ASSEMBLY, No. 3259

# STATE OF NEW JERSEY

DATED: MAY 3, 2001

The Assembly Banking and Insurance Committee reports favorably Assembly Bill No. 3259.

This bill makes technical and other amendments to the recent law concerning the retention of records by certain financial institutions, P.L.1999, c.257.

It adds a definition of "termination of the loan account" which means, for a closed-end loan, the date on which the loan is paid, and for an open-end loan, the date on which the outstanding balance of the account is brought to zero and the account is closed so that the borrower has no right to borrow additional funds under the loan agreement. In either case, termination of the loan account also occurs on the date upon which a loan is charged-off or the loan file is closed pursuant to action or policy of the governing board or committee of a financial institution.

The bill provides that records of dispositive or final judgments in bankruptcies involving a loan or termination of loan accounts need only be retained for a six-year period rather than the 20-year period under current law. Additionally, copies of records regarding collateral and the perfection of security interests, guarantees and other records specified by the Commissioner of Banking and Insurance need to be retained for a six-year period after the termination of the loan account. Instead of the current requirement for a 20-year retention, the bill provides that records of transfers by a financial institution of collateral that is real property shall be retained for six years after the date of the transfer of title, and that records of dispositive or final judgments or orders in foreclosure proceedings shall also be retained for six years.

The bill also adds a provision which states that nothing in the law concerning record retention shall be interpreted to require a financial institution to create any data or, except as specifically provided in the law, to retain any records that would not otherwise be created or retained. Under the provisions of the bill, financial institutions may retain records in any form permitted by current law.

This bill is identical to Senate Bill No. 1978.

P.L. 2001, CHAPTER 169, *approved July 26, 2001*

Senate, No. 1978

1 **AN ACT** concerning the retention of records by certain financial  
2 institutions and amending P.L.1999, c.257.

3

4 **BE IT ENACTED** *by the Senate and General Assembly of the State*  
5 *of New Jersey:*

6

7 1. Section 2 of P.L.1999, c.257 (C.17:16W-2) is amended to read  
8 as follows:

9 2. As used in this act:

10 "Commissioner" means the Commissioner of Banking and  
11 Insurance.

12 "Date of the passbook" means the date of the last entry by the  
13 financial institution of a transaction with respect to the passbook  
14 account, or if the form of the passbook is such that it does not provide  
15 for entry of transactions, the last date for which the financial  
16 institution has a record of an account transaction. If there is no record  
17 of activity with respect to a passbook account subsequent to the  
18 issuance of the passbook, the date of issuance shall be the date of the  
19 passbook.

20 "Financial institution" means a State chartered bank, savings bank  
21 or savings and loan association.

22 "Owner" means the person or persons in whose name the account  
23 was opened.

24 "Passbook" means a document or record issued by a financial  
25 institution, which document or record represents an obligation of the  
26 financial institution, which obligation either has no fixed maturity or  
27 due date or which by its term is subject to automatic renewal or  
28 renewals for an indefinite time or indefinite number of times. Neither  
29 a periodic account statement nor any obligation for which applicable  
30 law provides a time by which the payment is due is a passbook for the  
31 purposes of this act.

32 "Passbook account" means an account which is evidenced by a  
33 passbook, certificate of deposit or similar document.

34 "Statement account" means an account which is not a passbook  
35 account and for which a financial institution supplies a periodic  
36 statement of the account's activity, balance or both, or supplies any  
37 other statement of the account as the owner and financial institution  
38 may agree.

39 "Termination of the loan account" means: (1) with respect to a  
40 closed-end loan, the date on which the loan is paid; or (2) with  
41 respect to an open-end loan, the date on which the outstanding balance

**EXPLANATION - Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and intended to be omitted in the law.**

**Matter underlined thus is new matter.**

1 on the account is brought to zero and the account is closed so that the  
2 borrower has no right to borrow additional funds under the loan  
3 agreement; or (3) the date upon which, pursuant to action or policy  
4 of the governing board of a financial institution or committee thereof,  
5 a loan is charged-off or the loan file is otherwise closed by the  
6 financial institution.

7 (cf: P.L.1999, c.257, s.2)

8

9 2. Section 5 of P.L.1999, c.257 (C.17:16W-5) is amended to read  
10 as follows:

11 5. A financial institution shall retain records relating to the making,  
12 collection and administration of loans as follows:

13 a. For all loans:

14 (1) Records of ~~bankruptcies of borrowers,~~ dispositive or final  
15 judgments [against parties obligated on the] in bankruptcies or other  
16 litigation involving a loan, and [charge-off loans or closing of loan  
17 files] termination of loan accounts shall be retained for at least [20]  
18 six years after the [closing] termination of the loan account.

19 (2) ~~[Litigation files shall be retained for not less than six years~~  
20 ~~following the date of the final disposition of the litigation.] (Deleted~~  
21 ~~by amendment, P.L. , c. .)~~

22 (3) Records of approval of loans or credit shall be retained for not  
23 less than six years after the closing of the loan or credit files.

24 (4) Records of denials of ~~[a]~~ loan applications shall be retained for  
25 not less than 25 months after the date of the denial.

26 (5) Loan files, including ~~], but not limited to, appraisals, financial~~  
27 ~~statements, information] copies of records~~ regarding collateral and the  
28 perfection of security interests, guarantees~~], credit information and~~  
29 ~~correspondence with the borrower] and other records from time to~~  
30 ~~time specified for retention by regulation adopted by the~~  
31 ~~commissioner,~~ shall be retained for not less than six years after the  
32 ~~[closing] termination of the loan [file] account.~~ For lines of credit  
33 and open-end loans, records of transactions shall be retained for six  
34 years after the date of a transaction.

35 (6) Loan committee minutes shall be retained for not less than six  
36 years after the date of the committee meeting.

37 (7) Record of compliance with all applicable State and federal  
38 regulatory requirements shall be retained for the period specified in the  
39 applicable State or federal law or regulation. If no record retention  
40 period is specified in the law or regulation, the financial institution  
41 shall retain the records necessary to show compliance for not less than  
42 six years.

43 b. Collateralized loans:

44 (1) Records identifying the collateral perfection of the financial  
45 institution's security interest in the collateral and, for tangible personal



1 property, the place and method of possession of the collateral shall be  
2 retained for not less than six years after the [close of the file]  
3 termination of the loan account.

4 (2) Records of the disposition by a financial institution of [the]  
5 collateral that is personal property shall be retained for not less than  
6 six years after the date of disposition.

7 (3) For collateral that is real estate, records regarding the transfer  
8 of title [, including searches, title insurance policies and legal opinions  
9 as to title] by the financial institution shall be retained for at least [20]  
10 six years after the date of [disposition of the property if the property  
11 is transferred to a party other than the borrower. If the lien is released  
12 or otherwise satisfied and the borrower retains ownership of the  
13 property, the title records shall be retained for not less than six years]  
14 transfer of title. Records of dispositive or final judgments or orders  
15 in foreclosure proceedings shall be retained for not less than [20] six  
16 years after the date of the judgment of foreclosure or if no judgment,  
17 from the date of the termination of those proceedings.

18 (4) Records of escrow analyses and statements and of transactions  
19 in escrow accounts shall be retained for not less than six years.

20 (cf: P.L.1999, c.257, s.5)

21  
22 3. Section 10 of P.L.1999, c.257 (C.17:16W-10) is amended to  
23 read as follows:

24 10. a. In the event of any claim against a financial institution  
25 where the claimant relies in any way on records of the financial  
26 institution, which records are not required to be retained by the  
27 financial institution by the terms of this act or by other applicable State  
28 or federal record retention statutes or regulations and the records have  
29 not been retained by the financial institution, the fact that the financial  
30 institution does not have the records shall not give rise to any  
31 inference or presumption against the financial institution as to the  
32 content of the records nor shall the lack of the records shift any burden  
33 of proof from the claimant to the financial institution.

34 b. Nothing in this act shall be deemed to amend or alter any statute  
35 of limitations.

36 c. Nothing in P.L.1999, c.257 (C.17:16W-1 et seq.) shall be  
37 interpreted to require a financial institution to create any data or,  
38 except as specifically provided in that act, to retain any records that  
39 would not otherwise be created or retained. Records required to be  
40 retained by P.L.1999, c.257 (C.17:16W-1 et seq.) may be preserved  
41 in any form permitted by section 247 of P.L.1948, c.67 (C.17:9A-  
42 247).

43 (cf: P.L.1999, c.257, s.10)

44  
45 4. Section 11 of P.L.1999, c.257 (C.17:16W-11) is amended to  
46 read as follows:



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3 Concerns record retention by certain financial institutions.

## CHAPTER 169

AN ACT concerning the retention of records by certain financial institutions and amending P.L.1999, c.257.

**BE IT ENACTED** by the Senate and General Assembly of the State of New Jersey:

1. Section 2 of P.L.1999, c.257 (C.17:16W-2) is amended to read as follows:

C.17:16W-2 Definitions regarding records retention.

2. As used in this act:

"Commissioner" means the Commissioner of Banking and Insurance.

"Date of the passbook" means the date of the last entry by the financial institution of a transaction with respect to the passbook account, or if the form of the passbook is such that it does not provide for entry of transactions, the last date for which the financial institution has a record of an account transaction. If there is no record of activity with respect to a passbook account subsequent to the issuance of the passbook, the date of issuance shall be the date of the passbook.

"Financial institution" means a State chartered bank, savings bank or savings and loan association.

"Owner" means the person or persons in whose name the account was opened.

"Passbook" means a document or record issued by a financial institution, which document or record represents an obligation of the financial institution, which obligation either has no fixed maturity or due date or which by its term is subject to automatic renewal or renewals for an indefinite time or indefinite number of times. Neither a periodic account statement nor any obligation for which applicable law provides a time by which the payment is due is a passbook for the purposes of this act.

"Passbook account" means an account which is evidenced by a passbook, certificate of deposit or similar document.

"Statement account" means an account which is not a passbook account and for which a financial institution supplies a periodic statement of the account's activity, balance or both, or supplies any other statement of the account as the owner and financial institution may agree.

"Termination of the loan account" means: (1) with respect to a closed-end loan, the date on which the loan is paid; or (2) with respect to an open-end loan, the date on which the outstanding balance on the account is brought to zero and the account is closed so that the borrower has no right to borrow additional funds under the loan agreement; or (3) the date upon which, pursuant to action or policy of the governing board of a financial institution or committee thereof, a loan is charged-off or the loan file is otherwise closed by the financial institution.

2. Section 5 of P.L.1999, c.257 (C.17:16W-5) is amended to read as follows:

C.17:16W-5 Loan, collateralized loans; records.

5. A financial institution shall retain records relating to the making, collection and administration of loans as follows:

- a. For all loans:

- (1) Records of dispositive or final judgments in bankruptcies or other litigation involving a loan, and termination of loan accounts shall be retained for at least six years after the termination of the loan account.

- (2) (Deleted by amendment, P.L.2001, c.169.)

- (3) Records of approval of loans or credit shall be retained for not less than six years after the closing of the loan or credit files.

- (4) Records of denials of loan applications shall be retained for not less than 25 months after the date of the denial.

- (5) Loan files, including copies of records regarding collateral and the perfection of security interests, guarantees and other records from time to time specified for retention by regulation adopted by the commissioner, shall be retained for not less than six years after the termination of the loan account. For lines of credit and open-end loans, records of transactions shall be retained for six years after the date of a transaction.

- (6) Loan committee minutes shall be retained for not less than six years after the date of the

committee meeting.

(7) Record of compliance with all applicable State and federal regulatory requirements shall be retained for the period specified in the applicable State or federal law or regulation. If no record retention period is specified in the law or regulation, the financial institution shall retain the records necessary to show compliance for not less than six years.

b. Collateralized loans:

(1) Records identifying the collateral perfection of the financial institution's security interest in the collateral and, for tangible personal property, the place and method of possession of the collateral shall be retained for not less than six years after the termination of the loan account.

(2) Records of the disposition by a financial institution of collateral that is personal property shall be retained for not less than six years after the date of disposition.

(3) For collateral that is real estate, records regarding the transfer of title by the financial institution shall be retained for at least six years after the date of transfer of title. Records of dispositive or final judgments or orders in foreclosure proceedings shall be retained for not less than six years after the date of the judgment of foreclosure or if no judgment, from the date of the termination of those proceedings.

(4) Records of escrow analyses and statements and of transactions in escrow accounts shall be retained for not less than six years.

3. Section 10 of P.L.1999, c.257 (C.17:16W-10) is amended to read as follows:

C.17:16W-10 Claims where records not required to be retained, statutes of limitations not affected; requirements.

10. a. In the event of any claim against a financial institution where the claimant relies in any way on records of the financial institution, which records are not required to be retained by the financial institution by the terms of this act or by other applicable State or federal record retention statutes or regulations and the records have not been retained by the financial institution, the fact that the financial institution does not have the records shall not give rise to any inference or presumption against the financial institution as to the content of the records nor shall the lack of the records shift any burden of proof from the claimant to the financial institution.

b. Nothing in this act shall be deemed to amend or alter any statute of limitations.

c. Nothing in P.L.1999, c.257 (C.17:16W-1 et seq.) shall be interpreted to require a financial institution to create any data or, except as specifically provided in that act, to retain any records that would not otherwise be created or retained. Records required to be retained by P.L.1999, c.257 (C.17:16W-1 et seq.) may be preserved in any form permitted by section 247 of P.L.1948, c.67 (C.17:9A-247).

4. Section 11 of P.L.1999, c.257 (C.17:16W-11) is amended to read as follows:

C.17:16W-11 Applicability.

11. The provisions of this act shall apply to all financial institutions chartered by this State and to the records of out-of-State banks, savings banks and savings and loan associations which relate to accounts, loans or other transactions which are made or located in this State. The provisions of section 4 of P.L.1999, c.257 (C.17:16W-4) shall apply to federally chartered banks and savings banks in this State to the extent that they are not inconsistent with applicable federal law.

5. This act shall take effect immediately.

Approved July 26, 2001.

# Office of the Governor

PO BOX 004  
TRENTON, NJ 08625

## NEWS RELEASE

CONTACT: Rae Hutton  
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609-777-2600

RELEASE: July 27 , 2001

### **Acting Governor Donald T. DiFrancesco signed the following legislation:**

A-2478, sponsored by Senate Majority Leader, John Bennett (R-Monmouth) and Assemblymen Jack Gibson (R-Cape May/Atlantic/Cumberland) and John Kelly (R-Bergen/Essex/Passaic), provides that any relevant municipal ordinance would not apply to property for which any person is conducting actions related to historic pesticide contamination under the oversight of the Department of Environmental Protection, provided that such person, as a condition of any development approval by the municipality, obtains a full-site no further action letter from the department.

A-1755, sponsored by Assembly members David Wolfe (R-Monmouth/Ocean) and Joel Weingarten (R-Essex/Union), expands indemnification for school board members and employees and establishes a code of ethics for school board members.

S-78, sponsored by Senator Raymond Zane (R-Salem/Cumberland/Gloucester) and Assemblymen George Geist (R-Camden/Gloucester) and Kip Bateman (R-Morris/ Somerset), prohibits insurers from requiring filing of municipal court complaint as precondition to payment of certain claims.

A-1332, sponsored by Senators Peter Inverso (R-Mercer/Middlesex) and Robert Singer (R-Burlington/Monmouth/Ocean) and the late Assemblyman Alan Augustine (R-Middlesex/Morris/Somerset/Union), allows stalking victims protected by temporary restraining orders to register to vote without disclosing their street address.

AJR-49, sponsored by Senator Raymond Lesniak (D-Union) and Assemblymen Kip Bateman (R-Morris/Somerset) and Richard Bagger (R-Middlesex/Morris/Somerset/ Union), designates the third Thursday of October of each year as "New Jersey Credit Union Day."

S-1978, sponsored by Senators Gerald Cardinale (R-Bergen) and Anthony Bucco (R-Morris) and Assemblymen Kip Bateman (R-Morris/Somerset) and Peter Biondi (R- Morris/Somerset), provides that records of dispositive or final judgments in bankruptcies, records regarding collateral and the perfection of security interests and records of transfers by a financial institution of collateral that is real property shall be retained for six years as opposed to the current 20-year period.